

The Hon. James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

KRISTOPHER NEIL,

Defendant.

No. CR16-289-JLR

~~PROPOSED~~

PRELIMINARY ORDER
OF FORFEITURE



THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Kristopher Neil's ("the Defendant's") interest in the following property:

1. One Toshiba External Hard Drive, bearing serial number 24FZS8C15TT1; and,
2. Any and all images of child pornography, in whatever form and however stored.

The Court, having reviewed the papers and pleadings filed in this matter, including the United States' Motion, hereby FINDS entry of a Preliminary Order of Forfeiture is appropriate because:

[Proposed] Preliminary Order of Forfeiture - 1
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- The above-listed property is forfeitable pursuant to 18 U.S.C. § 2253, as property used to commit or to promote commission of the offense of Possession of Visual Depictions of Minors Engaged in Sexually Explicit Conduct and/or prohibited images; and,
- In the stipulation he entered on March 1, 2017, the Defendant agreed to forfeit the above-listed property pursuant to 18 U.S.C. § 2253 (Dkt. No. 27).

NOW, THEREFORE, THE COURT ORDERS:

1) Pursuant to his stipulation and 18 U.S.C. § 2253, the Defendant's interest in the above-listed property is fully and finally forfeited, in its entirety, to the United States;

2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will be final as to the Defendant at the time he is sentenced; it will be made part of the sentence; and, it will be included in the judgment;

3) The United States Department of Homeland Security, Homeland Security Investigations ("HSI"), and/or its authorized agents or representatives, shall maintain item 1 (the hard drive) in its custody and control until further order of this Court. In accord with 21 U.S.C. §§ 853(i) and 881(e), HSI shall destroy item 2 (any images of child pornography) unless they have been destroyed already or will be retained for official, investigative use;

4) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the United States shall publish notice of this Preliminary Order and the United States' intent to dispose of the above-listed hard drive (item 1) as permitted by governing law. The notice shall be posted on an official government website – currently www.forfeiture.gov – for at least thirty (30) days. For any person known to have alleged an interest in the above-listed hard drive, the United States shall, to the extent possible, also provide direct written notice to that person. The notice shall state that any person, other than Defendant, who has or claims a legal interest in the above-listed hard drive must file a petition with the Court within 60 days of the first day of publication of the notice (which is 30 days

1 from the last day of publication), or within 30 days of receipt of direct written notice,
2 whichever is earlier. The notice shall advise all interested persons that the petition:

- 3 a. shall be for a hearing to adjudicate the validity of the petitioner's alleged
4 interest in such property;
5 b. shall be signed by the petitioner under penalty of perjury; and,
6 c. shall set forth the nature and extent of the petitioner's right, title or interest
7 in the forfeited property, as well as any facts supporting the petitioner's
8 claim and the specific relief sought.

9 5) If no third-party petition is filed within the allowable time period, the
10 United States shall have clear title to the above-listed hard drive (item 1), and this
11 Preliminary Order shall become the Final Order of Forfeiture as provided by Fed. R.
12 Crim. P. 32.2(c)(2);

13 6) If a third-party petition is filed, upon a showing that discovery is necessary to
14 resolve factual issues it presents, discovery may be conducted in accord with the Federal
15 Rules of Civil Procedure before any hearing on the petition is held. Following
16 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
17 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
18 adjudication; and,

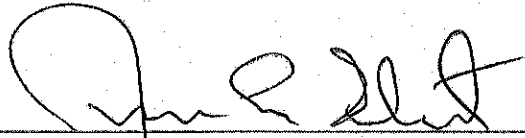
19 7) The Court will retain jurisdiction for the purpose of enforcing this
20 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
21 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
22 Fed. R. Crim. P. 32.2(e).

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1 DATED this th20 day of March, 2017.

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JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

Presented by:


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